In the High Court of Judicature at Madras

Dated:18.04.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM

and

The Hon'ble Mr. Justice J.A.K. SAMPATHKUMAR

Habeas Corpus Petition No.104 of 2006

D. Rani .. Petitioner

vs.

1. The Commissioner of Police
   Greater Chennai
   Chennai District.

2. The State of Tamil Nadu
   rep. by its Secretary
   Prohibition & Excise Department
   Government of Tamil Nadu
   Fort St. George
   Chennai 600 009. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus and to call for the records in connection with the order of detention passed by the first respondent dated 26.10.2005 in Memo.No.504/BDFGISV/2005 against the petitioner's brother Mariyan @ Soosai Mariyan S/o. Chelliah, aged about 27 years who is now confined in the Central Prison, Madras in pursuance of the detention order and setaside the same and direct the respondents to produce the detenue before this court and set him at liberty.

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For petitioner : Mr. Manoj Sreevalsan

For respondents : Mr. Abudukumar Rajaratrhinam
Govt., Advocate (Crl.)

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ORDER

(Order of the Court was made by P. SATHASIVAM,J.,)

The petitioner by name D. Rani, challenges the impugned order of detention dated 26.10.2005, detaining her brother Mariyan @ Soosai Mariyan, as "Goonda" under Section 3 (1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982 (in short "Tamil Nadu Act 14 of 1982").

2. Heard both sides.

3. Even at the foremost the learned counsel for the petitioner submitted that there was inordinate delay in considering the representation of the detenu, which vitiates the ultimate order of detention. With reference to the said claim the learned Government Advocate has placed details, which show that the representation of the detenue dated 18.11.2005/22.11.2005 was received by the Government on 22.11.2005/23.11.2005 and remarks were received on 28.11.2005. After receipt of the remarks, the same was dealt with by the Under Secretary and the Deputy Secretary on 29.11.2005; order was passed by the Minister for Prohibition and Excise on 30.11.2005, rejection letter was prepared on 07.12.2005; the same was sent to the detenu on 08.12.2005 and the rejection letter was served on the detenu on 09.12.2005. As rightly pointed out though the concerned Minister has passed an order on 30.11.2005, there is no explanation or reason for not forwarding the same to the detenu till 09.12.2005. In the absence of any explanation, we hold that the delay between 30.11.2005 and 09.12.2005 is enormous. On this ground, the impugned detention order is vitiated and the same is quashed; accordingly, this petition is allowed. The order of detention impugned in the petition is set aside and the detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with any other case.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

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To

1. The Commissioner of Police
   Greater Chennai
   Chennai District.

2. The Secretary to Government
   Prohibition & Excise Department
   Government of Tamil Nadu
   Fort St. George
   Chennai 600 009.

3. The Superintendent
   Central Prison, Chennai.

4. The Public Prosecutor
   High Court, Madras.

1 cc to Mr. Manoj Sreevalsan, Advocate, Sr. 19258

H.C.P.No.104 of 2006

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